



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,788	01/04/2002	Gilles Lebouill	11345/042001	7677
22511	7590	10/22/2007	EXAMINER TO, BAOTRAN N	
OSHA LIANG L.L.P. 1221 MCKINNEY STREET SUITE 2800 HOUSTON, TX 77010			ART UNIT 2135	PAPER NUMBER
			NOTIFICATION DATE 10/22/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@oshaliang.com
buta@oshaliang.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/019,788

Applicant(s)

LEBOUILL, GILLES

Examiner

Bao tran N. To

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, ~~the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.~~
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: NONE.
- Claim(s) objected to: NONE.
- Claim(s) rejected: 1-10, 18, 19 and 29-40.
- Claim(s) withdrawn from consideration: 11-17 and 20-28 (Canceled).

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (See Continuation Sheet).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

(Continuation of 11): The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's arguments filed 10/09/2007 have been fully considered but they are not persuasive.

Applicant argues, "The Examiner appears to be associating the fact that WebTV is a television set through which internet services are obtained to mean that broadcast services are automatically a part of the WebTV system of White. This is incorrect, as a close reading of White clearly shows that White is only related to providing internet-based services, and has nothing to do with providing broadcast (cable television) services" (Page 2 of Remarks).

Examiner respectfully disagrees with applicant. White explicitly discloses, "A standard telephone modem 27 and an ISDN modem 30 are coupled to ASIC 20 to provide connections 29a and 29b, respectively, to the modem pool 2 and, via the Internet 3, to the remote servers 4. Note that the WebTV box 10 also may include a cable television modem (not shown)" (Col. 5, lines 49-53). Therefore, White clearly discloses the WebTV box 10 include a cable television modem that is capable of providing the broadcast service such as cable television service.

Applicant further argues, "The Examiner relies on Peters as teaching the aforementioned limitation. However, Peters links different kinds of services specifically for the purpose of facilitating billing and other customer service tasks, not for purposes of "obtaining" the different kinds of services that are linked. Thus, while Peters does

Art Unit: 2135

disclose linking internet and broadcast services, it is done for a completely different purpose than that of the claimed invention" (Page 3 of Remarks).

In response to applicant's argument that "while Peters does disclose linking internet and broadcast services, it is done for a completely different purpose than that of the claimed invention", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant further argues, "Mao does not teach or suggest internet services provided using a unique identifier based on a subscription to broadcast services, nor does Mao teach or suggest a broadcast subscription and an internet subscription linked together for purposes of obtaining both types of services" (Page 3 of Remarks).

Examiner disagrees with this contention. As explained above, White explicitly discloses the limitation of internet services provided using a unique identifier based on a subscription to broadcast services (White, Col. 5, lines 49-53), and Peters explicitly discloses the limitation of a broadcast subscription and an internet subscription linked together for purposes of obtaining both types of services (Peters, Figure 4 and Abstract). Therefore, the combination of White, Peters, and Mao discloses the limitations of the independent Claims 1 and 18.

For at least the above reasons, it is believed that the rejection is maintained.



KIM VU
JULY 2007 PATENT EXAMINER
TECHNOLOGY CENTER 2100